

Department of Social Services Division of Licensing Programs STANDARD OPERATING PROCEDURE	TITLE: VIOLATION NOTICES AND INSPECTION SUMMARIES	PROCEDURE NUMBER SOP-304
		EFFECTIVE DATE: September 29, 2005
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304-1.0 PURPOSE

To establish within the Division of Licensing Programs (DOLP) a standardized system for effective delivery of violation notices and inspection summaries to licensed adult and children's facilities/programs.

304-2.0 SCOPE

This standard operating procedure applies to the writing and dissemination of violation notices and inspection summaries following on-site inspections to facilities/programs by licensing representatives.

304-3.0 DEFINITIONS

Corrective action plan: A written proposal, composed by a licensee in response to a corrective action notice from DOLP staff, in which the licensee identifies systemic roots of noncompliance with standards or statutes and develops a strategy for bringing a facility/program into compliance within an established period of time.

DOLPHIN (Division Of Licensing Programs Help and Information Network): The Division's data system that manages information about applicants and licensed providers and serves as a tool for the work of licensing staff.

Exit Consultation: A meeting that takes place between the licensing representative and the applicant/licensee (or designee) at the completion of an inspection. The purpose is for the licensing representative to deliver and go over the inspection summary, answer any questions from the applicant/licensee, provide technical assistance, and indicate preliminary findings when there are violations.

Inspection summary: A form generated by DOLPHIN following each on-site inspection that indicates the areas of standards reviewed, any technical assistance provided to the applicant/licensee, and/or comments/discussion during the inspection.

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Licensing representative: This usually refers to the staff delegated to provide ongoing regulatory oversight for a facility by the appropriate licensing office or unit. With proper designation by the licensing administrator or division management, however, staffs conducting such regulatory activities may be: staffs who perform similar functions for other facilities or licensing offices; a member of the division's central staff; or, a non-VDSS employee approved by the commissioner or division director.

Licensing study (a.k.a. initial study or renewal study): An on-site inspection conducted by a licensing representative, generally following the receipt of an initial or renewal application, during which a facility/program is evaluated on all applicable standards for the purpose of facilitating decisions about licensure.

Monitoring inspection: Any on-site inspection by a licensing representative to a facility/program while a license is in effect to assess a licensee's performance by determining compliance with a sample of standards.

Supplemental page: A form generated by DOLPHIN for documenting information that is in addition to or not appropriate for the inspection summary and violation notice. It is used to record identities of consumers and staff, so they will not appear on the public web site and to document and communicate to an applicant/licensee the preliminary findings from an inspection.

Synchronize: The act of transferring information collected on the LIM (License Inspection Module) by the licensing representative at the inspection to LicenseEase. The LIM and LicenseEase are the two basic components of DOLPHIN.

Systemic deficiency: A violation(s) that demonstrates defects in the overall operation of a facility/program or one of its components.

Technical Assistance: Advice given and documented on an inspection summary by a licensing representative to an applicant/licensee on ways to prevent non-compliance with standards. The term also refers to interpretive guidelines from the central office on how to apply the standards of a DOLP program.

Violation notice: A form generated by DOLPHIN following an on-site inspection when an applicant/licensee is found to be out of compliance with one or more standards or statutes. The form specifies the type of inspection/study, the code

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section for the violated standard(s) or statute(s), how the standard(s) or statute(s) was violated, and a description of action to be taken by the applicant/licensee to correct the violation and to prevent recurrence of the same or similar violations.

304-4.0 PROCEDURES

DOLP licensing representatives shall write inspection summaries and violation notices to adult and children's facilities/programs in a clear, concise and professional manner. These reports shall be thorough and specific, while at the same time protective of confidential information.

304-4.1 General Guidelines:

1. The licensing representative in writing inspection summaries and violation notices shall:
 - a. Use clear and precise writing, free from grammar and spelling errors;
 - b. Avoid elaborate sentence structure, abbreviations, technical jargon, and vague terminology;
 - c. Make comments specific, concise, and free of value judgments and subjective generalizations;
 - d. Focus on standards, not individual accomplishments/failures;
 - e. Edit all printouts prior to providing them to a facility to verify accuracy and clarity; and
 - f. Read over the inspection summary and violation notice before synchronizing the completed inspection to verify that there are no errors and that it does not contain any confidential information.

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2. The licensing representative shall protect the names and identities of consumers, witnesses, staff, and complainants by:
 - a. Keeping in confidence information related to all individuals' medical information, criminal background clearances, and protective services investigations;
 - b. Redacting any references in the record to confidential or identifying personal information prior to dissemination following a records request based on the Freedom of Information Act (FOIA); and
 - c. Utilizing a numbering system on inspection summaries and violation notices (such as, "Staff #1, Resident #2), with corresponding identities listed on the supplemental page in DOLPHIN that is not for public inspection.

NOTE: The licensing representative shall specify titles and/or surnames where appropriate on the supplemental page when referring to facility/program staff, such as the medication technician, the director, Mr. John Smith, Ms. Susan Jones (**not** "John" or "Susan").

304-4.2 Inspection Summary:

304-4.2.1 Overview

The licensing representative shall issue to the applicant/licensee an inspection summary at the conclusion of each inspection to document standards reviewed, any technical assistance provided, and pertinent comments/discussion (Attachment A).

NOTE: A licensing representative may need to issue an additional inspection summary at a later date in order to communicate the outcome of a complaint investigation (see SOP-401: Complaints).

304-4.2.2 Identifying Information

1. The licensing representative shall accurately identify the facility/program name and date of the inspection.

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2. The licensing representative shall indicate the type of inspection based on the definitions for licensing studies, monitoring inspections, and complaints found in SOPs 301 (Conducting an Inspection) and 401.

304-4.2.3 Standards Reviewed

The licensing representative shall indicate in DOLPHIN the areas of standards reviewed during the inspection.

NOTE: DOLPHIN will automatically list these items in the “areas of standards reviewed” section of the inspection summary, if the “Area of Stands Revw’d” button is clicked on the Summary tab of the DOLPHIN inspection screen.

304-4.2.4 Technical Assistance Provided

1. The licensing representative shall document any advice given to the applicant/licensee on strategies to prevent non-compliance with standards and/or to regain and maintain compliance.
2. The licensing representative shall also indicate in the form of a brief, general statement any official interpretations of standards that are relayed to the applicant/licensee during the inspection.
3. Example:

Technical Assistance Provided:

The licensing inspector illustrated with the administrator one format for MAR documentation when a medication order is changed. The suggested format would involve going to a new line on the MAR with each change in a medication order. MAR documentation MUST reflect actual dosages administered for each medication to each resident each day. Staff members need to be reminded to punch the bubble packs with medications in order and on the card for the designated time of day. Please consult your pharmacy if you need further instruction on this matter.

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304-4.2.5 Comments/Discussion

1. The licensing representative shall write a brief summary of the inspection, focusing on the main areas of concern if there are violations.
2. The licensing representative shall document any additional, pertinent information from the inspection, such as follow-up notations, complaint findings, advice relating to possible future changes by the applicant/licensee, and relevant instructions.
3. Example:

Comments/Discussion:

The licensing inspector for Acme Assisted Living Facility conducted an unannounced, two-day monitoring inspection at which mid-day and evening meals were observed; residents were observed; resident and staff files and other documentation were reviewed; and interviews were conducted. Twenty-five residents were found to be in care. Previous violations were reviewed, and eleven (11) of the violations from the previous inspection had not been corrected. Refund, cleanliness, health care oversight, medication administration, and building issues continue to require improvement, and staffing is again a major concern, so a corrective action notice will be issued to address these systemic deficiencies. The notice will indicate the due date for your corrective action plan. As noted in the previous inspection summary, the resolution and sustained compliance regarding these issues is critical to the continued operation of the business. Your current licensure period ends in about three months, so it is critical for you to demonstrate improved performance as soon as possible. Please contact your licensing inspector at (123) 456-7890 if you have any questions.

304-4.2.6 Signatures

The licensing representative shall sign the inspection summary and request that the applicant/licensee sign it, as well, to indicate receipt.

304-4.3 Violation Notice:

304-4.3.1 Overview

The licensing representative shall write and deliver, in addition to an inspection summary, a violation notice following any inspections at which an applicant/licensee is found to be out of compliance with one or more applicable standards (Attachment B).

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304-4.3.2 Use of Supplemental Page for Preliminary Findings

The licensing representative shall use the supplemental page (Attachment C) to communicate preliminary findings in writing to the applicant/licensee at the exit consultation (see SOP-301), at which the licensing representative shall verbally discuss the findings with the applicant/licensee.

NOTE: If the licensing representative is able to complete his or her portion of the violation notice by the end of the inspection, the supplemental page does not need to be used to document preliminary findings. In the case of a complaint investigation which needs further interviews or verification, the licensing representative need only leave the inspection summary with the licensee at the end of the initial inspection (see SOP-401).

304-4.3.3 Identifying Information

1. The licensing representative shall accurately identify the facility name and date of the inspection.
2. The licensing representative shall indicate the type of inspection based on the definitions for licensing studies, monitoring inspections, and complaints in SOPs 301 and 401.

304-4.3.4 Description of Violation

1. The licensing representative shall cite a violation with a clear statement of the evidence that points to the facility's noncompliance with the standard.
 - a. The description of violation shall as applicable:
 - Specify any condition(s), action(s) or non-action by the applicant/licensee by illustrating in chronological order relevant details that point to noncompliance, including any corroborating documentary evidence;
 - Explain how the facts relate to the identified standard, what action or non-action was problematic, who was involved, where the noncompliance occurred, and when it took place;

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- Indicate briefly any consequences or outcomes that resulted from the action(s) or non-action;
- Identify the extent, frequency, and severity of the action(s) or non-action;
- Reference the source(s) of information that established the evidence of noncompliance; and

NOTE: The licensing representative shall follow procedures in 4.1.2 if the source of information is an individual.

- Include, if possible, pertinent and fitting quotations from interviews conducted during the inspection(s).

b. Example:

STANDARD NUMBER:	DESCRIPTION OF VIOLATION:
22VAC40-71-130-A	Based on review of the staff schedule and the actual duties performed, the facility is understaffed resulting in multiple violations including repeated violations identified during the previous visit. At the time of the inspection, only three staff members (including the administrator) were employed at Acme Assisted Living Facility and were responsible for all direct care duties, activities, and cleaning. The administrator indicated that she additionally handles admissions, coordinates transportation, cooks, washes dishes, assists with medications, completes paperwork, and acts as counselor to residents. One staff member and the administrator are scheduled for duty 24 hours per day, often for five straight days during the week, and both alternate weekend coverage with the remaining staff member, who is scheduled for duty from 7 a.m. Saturdays until 7 a.m. on Mondays.

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2. The licensing representative shall sign and leave the violation notice with the applicant/licensee on the day of the inspection or send it within 2 business days of the inspection (see 4.3.5, section 1.a).

- a. The licensing representative shall discuss all cited (or anticipated) violations with the applicant/licensee at the exit consultation.
- b. The licensing representative shall leave with the applicant/licensee written preliminary findings as identified on the supplemental page (see 4.3.2 above and Appendix C), if more time is needed to develop and write the violation notice.

NOTE: In the case of a complaint investigation which needs further interviews or verification, the licensing representative need only leave the inspection summary with the licensee at the end of the initial inspection (see SOP-401).

- c. The finding review date in DOLPHIN means the day of the exit consultation.

NOTE: For multiple-day inspections, the finding review date is the last day of the inspection, on which the exit consultation should also take place.

304-4.3.5 Description of Action to be Taken

1. The licensing representative shall take the following courses of action after completing the “description of violation” column of the violation notice:
 - a. Request that the applicant/licensee complete the columns for “description of action to be taken” and “date to be corrected” for each cited violation on the violation notice, and then return a signed and dated copy to the licensing office within 10 calendar days of receipt;
 - The licensing representative shall enclose with the violation notice, if it is sent to the applicant/licensee through the mail, a letter (Appendix D) requesting the completion of the appropriate columns within 10 calendar days of receipt of the correspondence.

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- The licensing representative shall send the letter and the notice by certified mail, unless he or she plans to deliver the violation notice by hand to the applicant/licensee within 4 business days following the inspection.
- The licensing representative shall not require a description of action to be taken from the applicant/licensee for a minor, isolated violation corrected during the inspection, unless it indicates a systemic deficiency (4.3.5, section 1.b). Example:

DESCRIPTION OF VIOLATION	DESCRIPTION OF ACTION TO BE TAKEN
Three outlet safety covers were observed missing by the licensing representative during the inspection on 1/1/04.	The licensee replaced the outlet safety covers on the spot during the course of the inspection and stated that they had been removed the day before by the cleaning service. <i>(The licensing representative fills in this section for minor violations.)</i>

- Enter, “see corrective action plan,” in the action to be taken column of the violation notice for all systemic deficiencies, then write and deliver a corrective action notice requesting that the licensee complete a corrective action plan (see SOP-305: Corrective Action Notices and Plans) by a specified date; and
- Recommend an adverse enforcement action (see SOP-501: Adverse Enforcement Actions), including denial or revocation, when there is a high risk to residents/participants and/or the licensee has repeated or numerous violations.

NOTE: The licensing representative shall follow steps in section 1.a above unless he or she plans to give a corrective action notice (see section 1.b and SOP-305) to the licensee.

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2. The licensing representative shall instruct the applicant/licensee verbally or in writing to address in the description of action to be taken:
 - a. Steps to correct the noncompliance with the standard(s);
 - b. Measures to prevent the noncompliance from occurring again; and
 - c. Person(s) responsible for implementing each step and/or monitoring any preventive measure(s).

304-4.3.6 Posting the Violation Notice on the Public Web Site

1. The licensing representative shall type into DOLPHIN the applicant/licensee's "description of action to be taken" and "date to be corrected" for each cited violation on the violation notice.

NOTE: The licensing representative shall not type in an entire corrective action plan from a licensee following a corrective action notice (SOP-305). The licensing representative shall, instead, indicate in the description of action to be taken that, "the licensee is developing a corrective action plan." Once the corrective action plan is received from the licensee, the licensing representative shall change the description to, "a corrective action plan is in the licensing record."

2. The licensing representative shall close and synchronize the inspection within 15 calendar days from the date the applicant/licensee initially received the violation notice, regardless of whether the applicant/licensee completed and returned it to the licensing office within the 10-day timeframe established above in 4.3.5, section 1.a.

304-5.0 AUTHORITY

Code of Virginia 63.2-1702 (1706); 22 VAC 40-80-30 (180 & 310)

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304-6.0 RESPONSIBILITY

The operations manager, licensing administrators, and licensing representatives shall be responsible for ensuring compliance with this standard operating procedure.

304-7.0 INTERPRETATION

The director of the Division of Licensing Programs shall be responsible for interpreting or granting any exceptions to this standard operating procedure.

304-8.0 SUPERSEDES: First Issue; replaces relevant sections of OIM-6 (10/99).

304-9.0 EFFECTIVE DATE: September 29, 2005

304-10.0 REVIEW DATE: Two years from the effective date.

Reviewed and Approved by:

Carolynne H. Stevens, Director Date: September 23, 2005
Division of Licensing Programs

Appendix A

VIRGINIA DEPARTMENT OF SOCIAL SERVICES

DIVISION OF LICENSING PROGRAMS

INSPECTION SUMMARY

Name of Facility: _____ Inspection Date: _____

Inspect. Type: Initial Renewal Monitoring Complaint Train/Consult Other Announced Unannounced

Areas of Standards Reviewed:

Technical Assistance Provided:

Comments/Discussion:

Violation Notice Issued:

Yes

No

Signature of Licensing Representative

Signature of Facility Representative

Date

032-05-035 (11/99)

Original: Case Record

Copy: Facility Representative

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Appendix B

VIRGINIA DEPARTMENT OF SOCIAL SERVICES

DIVISION OF LICENSING PROGRAMS

VIOLATION NOTICE

Facility Name _____

Inspection Date _____

Facility Number _____

Findings Review Date _____

Inspect. Type: Initial Renewal Monitoring Complaint Train/Consult Other Announced Unannounced

STANDARD NUMBER	DESCRIPTION OF VIOLATION	DESCRIPTION OF ACTION TO BE TAKEN (Preventative actions & Staff Responsibilities)	DATE TO BE CORRECTED

It is agreed that these violations will be corrected by the dates shown and that compliance will be maintained with all regulations.

If the facility representative wants further discussion of the findings, a conference with the licensing inspector and his or her supervisor may be requested. Please contact your licensing office within fifteen days of the findings review date.

Inspector Signature _____

Facility/Program Representative Signature _____

Date _____

Date of Receipt _____

Completion _____

Appendix C

VIRGINIA DEPARTMENT OF SOCIAL SERVICES

DIVISION OF LICENSING PROGRAMS

SUPPLEMENT TO Main Street Assisted Living Center Dated 5/18/05

PRELIMINARY FINDINGS FROM INSPECTION

Anticipated Violations:

22VAC40-71-110-C-2-c	TB report missing for Mr. Smith.
22VAC40-71-80-E	Mr. Smith does not have required training.
22VAC40-71-180-H	Missing photo and description of resident (Jane Doe).
22VAC40-71-600-A	Call system not working in some rooms

Signature of Licensing Representative

Signature of Facility Representative

Date

Appendix D

Request Letter for Description of Action to be Taken

May 19, 2005

John Brown, Director
Main Street Assisted Living Center
1234 Main Street
Richmond, VA 23219

Dear Mr. Brown:

Enclosed is a violation notice that indicates areas of noncompliance observed from my inspection of Main Street Assisted Living Center on May 18, 2005. It fully documents the items we discussed at the exit consultation at the end of the inspection.

Although a reasonable period of time may be allowed for actual correction of these deficiencies, your “description of action to be taken” for each violation, along with the “date to be corrected,” must be returned to this office signed and dated within 10 calendar days of receipt of this letter.

As you fill in your portion of the violation notice, you will need to specify how the deficient practice will be or has been corrected. Writing the word “corrected” is not acceptable under any circumstance. Your description of action to be taken must contain the following:

- Steps to correct the noncompliance with the standard(s);
- Measures to prevent the noncompliance from occurring again; and
- Person(s) responsible for implementing each step and/or monitoring any preventive measure(s).

This violation notice is subject to public disclosure and will be posted on the Virginia Department of Social Services’ web site within 15 calendar days of your receipt of this letter, regardless of whether you return your description of action to be taken. If you have any questions, please call me at (123) 456-7890.

Sincerely,

, Licensing Inspector
Division of Licensing